

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

ACTUS, LLC,

Plaintiff,

v.

BANK OF AMERICA CORP., et al.

Defendants.

CIVIL ACTION NO. 2:09-cv-102-TJW

JURY TRIAL DEMANDED

STIPULATED MOTION FOR DISMISSAL WITH PREJUDICE

The plaintiff, Actus, LLC (“Actus”) and Defendant Bank of America Corporation (“BOA”), pursuant to Fed. R. Civ. P. 41(a)(2) and (c), hereby move for an order dismissing Plaintiff’s claims in this action against Defendant Bank of America Corporation WITH PREJUDICE and dismissing all counterclaims and pending motions between the parties as MOOT, subject to the terms of that certain agreement entitled “BANK OF AMERICA SETTLEMENT AGREEMENT” and dated August 31, 2009, with each Party to bear its own costs, expenses and attorneys fees.

Dated: September 11, 2009

Respectfully Submitted,

BANK OF AMERICA CORPORATION

By: /s/ David G. Wille

David G. Wille
Texas State Bar No. 00785250

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BANK OF AMERICA CORPORATION**

ACTUS, LLC

By: /s/ William E. "Bo" Davis, III

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**ATTORNEY FOR PLAINTIFF
ACTUS, LLC**

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing document was filed electronically in compliance with Local Rule CV-5(a). As such, this document was served on all counsel who are deemed to have consented to electronic service. Local Rule CV-5(a)(3)(A). Pursuant to Fed. R. Civ. P. 5(d) and Local Rule CV-5(d) and (e), all other counsel of record not deemed to have consented to electronic service were served with a true and correct copy of the foregoing by email, on this the 11th day of September, 2009.

/s/ William E. "Bo" Davis, III
William E. "Bo" Davis, III